

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21161

Application 31164 of

City of Rio Dell
675 Wildwood Avenue
Rio Dell, CA 95562

filed on **March 20, 2001**, has been approved by the State Water Resources Control Board (SWRCB)
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source:
Eel River

Tributary to:
Pacific Ocean

within the County of **Humboldt**.

2. Location of point of diversion

By California Coordinate System of 1927, in Zone 1	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
POD 1; North 436,954 feet and East 1,408,436 feet	SE¼ of NE¼	36	2N	1W	Humboldt
POD 2; North 436,842 feet and East 1,408,545 feet	SE¼ of NE¼	36	2N	1W	Humboldt
POD 3; North 429,578 feet and East 1,416,603 feet	SW¼ of SW¼	5	1N	1E	Humboldt
POD 4; North 429,293 feet and East 1,416,346 feet	SW¼ of SW¼	5	1N	1E	Humboldt

3. Purpose of use	4. Place of use	Section	Township	Range	Base and Meridian	Acres
Domestic	City of Rio Dell Municipal Service Area	31, 32	2N	1E	Humboldt	
		36	2N	1W	Humboldt	
		5, 6, 7	1N	1E	Humboldt	
		1, 12	1N	1W	Humboldt	

The place of use is shown on map on file with the SWRCB.

5. The water appropriated shall be limited to the quantity that can be beneficially used and shall not exceed **2.02 cubic feet per second (cfs)** to be diverted from **January 1** to **December 31** of each year. The maximum amount diverted under this permit shall not exceed **1,196** acre-feet per year.
(0000005A)
6. The total quantity of water diverted under this permit, together with that diverted under License 10464 (Application 23196), shall not exceed 1,500 acre-feet per year.
(0000114B)
7. The maximum simultaneous rate of diversion under this permit, together with that diverted under License 10464 (Application 23196) shall not exceed 2.64 cfs.
(0000114D)
8. The combined maximum diversion under this permit and License 10464 (Application 23196) shall not exceed the following:

Previous Day's Eel River Daily Average Flow** (cfs)	Maximum Daily Average Diversion Rate (cfs)
<5.0	0.0
5.0-10.0	0.5
10.1-15.0	1.1
15.1-20.0	1.6
20.1-25.0	2.0
25.1-30.0	2.2
30.1-35.0	2.4
35.1-40.0	2.5
>40.0	2.64

** As determined by the U.S. Geological Survey (USGS)/Department of Water Resources (DWR) stream gauge at Scotia.

In the event that the gauge at Scotia is no longer available for streamflow measurements, permittee (or successors-in-interest) is responsible for installing and maintaining an equivalent gauge, satisfactory to the Chief, Division of Water Rights, as near as practicable to the present location of the Scotia gauge. In the absence of such an equivalent gauge, the permittee must submit a plan within 30 days of discontinuation of the Scotia gauge to the Chief, Division of Water Rights, on how the permittee will comply with the measuring and monitoring requirements of this permit and shall implement all measures identified in the plan.

Permittee shall maintain diversion records for a minimum of ten years from the date of collection. Such records shall include, at a minimum, the date, the daily average flow in the Eel River at the USGS/DWR gauge at Scotia, the corresponding maximum allowable daily average diversion rate for the following day, and the actual daily average diversion rate. Permittee shall submit a copy of such records for each year to the Chief of the Division of Water Rights as part of the submittal of the annual permittee progress report.

Any non-compliance with this term shall be promptly reported by the permittee to the Chief of the Division of Water Rights.

(0140500)

9. Within six months of the issuance of this permit, the Permittee shall submit a Compliance Plan for approval by the Chief of the Division of Water Rights that will demonstrate compliance with the diversion limitations specified in this permit. The Compliance Plan shall include the following:
- a) A description of the gages and monitoring devices that will be installed or have been installed to measure stream flow.
 - b) A time schedule for the installation of these facilities.
 - c) A description of the frequency of data collection and the methods for recording bypass flows.
 - d) An operation and maintenance plan that will be used to maintain all facilities in good condition.

The Permittee shall be responsible for all costs associated with developing the Compliance Plan, and installing and maintaining all flow monitoring facilities described in the Compliance Plan.

Diversion and use of water prior to approval of the Compliance Plan and the installation of facilities specified in the Compliance Plan is not authorized.

(0000070)

10. Construction work and complete application of the water to the authorized use shall be prosecuted with reasonable diligence and completed by December 31, 2013.

(0000009)

11. Permittee shall consult with the Division of Water Rights and, within one year from the date of this permit, shall submit to the State Water Resources Control Board its Urban Water Management Plan as prepared and adopted in conformance with section 10610, et seq., of the California Water Code, supplemented by any additional information that may be required by the Board.

All cost-effective measures identified in the Urban Water Management Plan and any supplements thereto shall be implemented in accordance with the schedule for implementation found therein.

(0000029A)

12. The permittee shall obtain all necessary state and local agency permits required by other agencies prior to construction and diversion of water. Copies of such permits and approvals shall be forwarded to the Chief, Division of Water Rights.

(0000203)

13. No debris, soil, silt, cement that has not set, oil, or other such foreign substance will be allowed to enter into or be placed where it may be washed by rainfall runoff into the waters of the State. When construction operations are completed, any excess materials or debris shall be removed from the work area.

(0000208)

14. No water shall be diverted under this Permit until permittee has constructed a fish screen at the new point of diversion or has proposed and constructed an alternative. Any alternative must comply with the Department of Fish and Game criteria and receive their written approval. Permittee shall submit a copy of the State Department of Fish and Game's written approval of the plans and design calculations to the Division of Water Rights within 30 days from the date of the approval. Construction, operation, and maintenance of any required facility are the responsibility of the permittee. If the fish screen or any alternative is rendered inoperative for any reason, the permittee shall notify the Chief of the Division of Water Rights immediately and shall restore the equipment to service as soon as possible.

(0000213)

15. No water shall be diverted under this permit except through a fish screen on the intake to the diversion structure, satisfactory to meet the physical and operational specifications of the (California Department of Fish and Game/ United States Fish and Wildlife Service/ National Marine Fisheries Service) to protect Steelhead Trout and Coho Salmon, listed as endangered or threatened under [the California Endangered Species Act (Fish and Game Code sections 2050 to 2098)/ the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544)]. Construction, operation, and maintenance costs of the required facility are the responsibility of the permittee.
(0000214)
16. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortar cups; ground stone implements (grinding slabs, mortars and pestles) and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; and structure and feature remains such as building foundations, privy pits, wells and dumps; and old trails. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the permittee to evaluate the find and recommend appropriate mitigation measures. Proposed mitigation measures shall be submitted to the Chief of the Division of Water Rights for approval. Project-related activities shall not resume within 100 feet of the find until all approved mitigation measures have been completed to the satisfaction of the Chief of the Division of Water Rights.
(0000215)

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

- A. The amount authorized for appropriation may be reduced in the license if investigation warrants.
(0000006)
- B. Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued.
(0000010)
- C. Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit.
(0000011)
- D. Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily

be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(0000012)

- E. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(0000013)

- F. This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

(0000014)

- G. Permittee shall maintain records of the amount of water diverted and used to enable the State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(0000015)

- H. No work shall commence and no water shall be diverted, stored or used under this permit until a copy of a stream or lake alteration agreement between the State Department of Fish and Game and the permittee is filed with the Division of Water Rights. Compliance with the terms and conditions of the agreement is the responsibility of the permittee. If a stream or lake agreement is not necessary for this permitted project, the permittee shall provide the Division of Water Rights a copy of a waiver signed by the State Department of Fish and Game.

(0000063)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefore shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

STATE WATER RESOURCES CONTROL BOARD


for Harry M. Schueller
Chief Deputy Director

Dated: NOV 21 2003